

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Joel Tapia,

Petitioner-Defendant.

v.

United States of America

Respondent.

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KIMBA M. WOOD, United States District Judge:

On August 23, 2023 Defendant Joel Tapia moved *pro se* for a sentence reduction pursuant to 18 U.S.C. § 3742. (Mot., ECF No. 744.) On October 19, 2023, the Court informed Tapia that given the relief he seeks, his August 23 motion was most properly construed as a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. (Order., ECF No. 745.) The Court provided Tapia with 60 days to notify the Court, in writing, that he either (i) consented to the Court treating his motion pursuant to 28 U.S.C. § 2255, (ii) wished to modify his motion, or (iii) wished to withdraw his motion. (*Id.*) On November 16, 2023 Tapia requested that the Court treat his August 23 motion as a motion pursuant to 28 U.S.C. § 2255. (ECF No. 755.) For the foregoing reasons, it is hereby ORDERED that:

The August 23, 2023 motion is construed as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2255. The Clerk of Court is respectfully directed to designate the August 23, 2023 submission (ECF No. 744) as a case brought pursuant to 28 U.S.C. § 2255.

SO ORDERED.

Dated: New York, New York
December 5, 2023

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 12/5/2023

[17-CR-512] (KMW)

ORDER

/s/ Kimba M. Wood

KIMBA M. WOOD
United States District Judge

